IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9535 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

UNITED PHOSPHORUS LIMITED

Versus

SHRI BABUBHAI C. AAHIR

Appearance:

1. Special Civil Application No. 9535 of 2001

M/S TRIVEDI & GUPTA for Petitioner No. 1-2

MR SUNIL C PATEL for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 15/10/2004

ORAL JUDGEMENT

This petition is filed by the employer challenging the award dated 10th April 2001 passed by the Labour Court, Valsad in Reference (LCV) No.2020/90. By

the impugned award, the Labour Court was pleased to direct reinstatement of the workman with 80 per cent backwages.

2. The petitioners had produced a full and final settlement arrived at between the petitioners and the respondent-workman dated 29.4.2004 in which it is stated, inter alia, that the respondent has been paid an amount of Rs.4,15,000/- on 29.4.2004 by demand draft dated 19.4.04 drawn on State Bank of India, Vapi branch towards full and final settlement of all his rights, claims, demands and disputes including those flowing from the impugned award.

3. The respondent workman had, however, filed an affidavit dated 15th September 2004 raising certain doubts about the said settlement. He had, however, not denied having received the said amount of Rs.4,15,000/-. In response to the said affidavit of the respondent, the petitioner has filed an affidavit of the officer of the Company dated 5th October, 2004 in which it is also pointed out that on the basis of the said settlement, the respondent had also signed a purshis before the Labour Court for withdrawing the Recovery Application No.175/02. The petitioner had otherwise also controverted the averments made by the respondent in the affidavit dated 15.9.04.

4. Though at one stage, the respondent had expressed doubt about the full and final settlement, counsel for the respondent, Shri Sunil Patel, submits that the stand taken by the respondent was under mistaken belief and the respondent regrets the same. The respondent who is present in Court through his counsel submits that the earlier affidavit filed by him on 15.9.04 was under mistaken belief and that he accepts the terms and conditions of the settlement dated 29th April 2004 fully and completely. In this view of the matter, I do not propose to pursue the question of respondent having at some stage filed an affidavit controverting his own statement borne out in the said settlement.

5. In view of the situation obtaining as noted above, the entire issue having been finally settled between the parties, the impugned award of the Labour Court stands modified in terms of the settlement. In the result, no further order is required to be passed in the petition and the same is therefore disposed of accordingly. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)

(vjn)